



Practitioner's Docket No. **CCF-5519NP2**

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Shuvo Roy et al.

Serial No.: 10/769,823

Group No.: 3736

Filed: 02/02/04

Examiner: Brian Scott Szmal

For: **APPARATUS AND METHOD FOR ASSESSING LOADS
ON ADJACNET BONES**



*Patent No.:

Issue Date:

**NOTE: Preferably also insert inventor's name and invention title.*

Mail Stop Amendment
Commissioner for Patents
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**TERMINAL DISCLAIMER TO OBVIATE
A DOUBLE PATENTING REJECTION (37 C.F.R. 1.321(c))**

Identification of Person(s) Making This Disclaimer

I, Richard S. Wesorick

(type or print names of all inventors or assigns or name of attorney signing disclaimer)

(a) represent that I am



an inventor of this invention.



an assignee of this invention.

CERTIFICATION UNDER 37 CFR §§ 1.8(a) and 1.10*

*(When using Express Mail, the Express Mail label number is mandatory;
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Anita J. Galo

(type or print name of person certifying)

Date: May 15, 2006

**Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.*

(Terminal Disclaimer to Obviate a Double Patenting Rejection--(Provisional Obviousness-Type Double Patenting Rejection Over a Prior Patent-Reexamination Proceeding) [9-4]-- Page 1 of 4)

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WARNING: "If the patent or patent application is assigned to an organization, such as a corporation, partnership, university, [g]overnment agency or similar entity, and the disclaimer is signed by the assignee, the assignee must comply with § 3.73(b)." Notice of Oct. 15, 1993, 1156 O.G. 54-61 at 56.

☐ a representative authorized to sign on behalf of the assignee identified below.

☐ a statement under 37 C.F.R. 3.73(b) is attached.

WARNING: See the above "WARNING".

☒ the attorney of record for this invention.

NOTE: The rules "permit an attorney or agent of record to sign a terminal disclaimer without the need to comply with § 3.73(b)." Notice of Oct. 15, 1993, 1156 O.G. 54-61, at 56. See also § 1490, M.P.E.P., 7th Edition.

IDENTITY OF ASSIGNEE AND TITLE OF DISCLAIMER (if applicable)

The assignee is

Name of assignee The Cleveland Clinic Foundation

Address of assignee 9500 Euclid Avenue

Cleveland, OH 44195

Title of disclaimant authorized to sign on behalf of assignee

EXTENT OF DISCLAIMER'S INTEREST

The extent of the interest in this invention that the disclaimant owns is in:

☒ the whole of this invention.

☐ a sectional interest in this invention, as follows:

NOTE: Disclaimers from the whole interest must be filed

(state the exact interest of the disclaimant)

The disclaimant(s) is/are:

☐ the applicant(s)

☐ the assignee(s)

RECORDAL OF ASSIGNMENT IN PTO

(if applicable)

- ☒ The assignment was recorded on **Janaury 4, 2002**
Reel **012429**
Frame **0427**
- ☐ Authorization for recordal of the assignment is separately attached.
- ☐ A separate ☐ "ASSIGNMENT (DOCUMENT) COVER SHEET" or
☐ FORM PTO 1595 is also attached.

ESTABLISHING RIGHT OF ASSIGNEE TO TAKE ACTION

(if applicable)

- ☐ Attached is a STATEMENT UNDER 37 C.F.R. 3.73(b) establishing the right of the assignee to take action in this case.

NOTE: Insert the appropriate page 3.

DISCLAIMER
(Provisional Obviousness-Type Double Patenting Rejection Over a Prior
Patent--Reexamination Proceeding)

Petitioner(s) hereby disclaims, except as provided below, the terminal part of the patent being reexamined, which would extend beyond the expiration date of Patent No. 6,706,005, issued on September 10, 2002, as presently shortened by any terminal disclaimer. Petitioner(s) hereby agree(s) that the patent for which a reexamination certificate is issued as a result of his proceeding shall be enforceable only for and during such period that it and the above-listed patent granted are commonly owned. This agreement runs with any reexamination certificate issued on the instant patent and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, disclaimant does not disclaim the terminal part of any reexamination certificate granted on the instant patent that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the patent forming the basis of the double patenting rejection, namely, Patent No. 6,706,005 as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

DISCLAIMER FEE STATUS (37 C.F.R. 1.20(d))

- ☐ Other than a small entity—fee \$130.00
- ☒ Small entity—fee \$65.00.
 - ☐ Small entity statement attached.
 - ☒ Small entity statement already filed
 - ☐ in patent application _____
 - ☐ on _____ (Date)

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- ☐ Fee already paid.
- ☒ Attached is a ☒ check ☐ money order in the amount of **\$65.00**.
- ☐ Authorization is hereby made to charge the amount of **\$0.00**
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- ☐ to credit card as shown on the attached credit card information authorization form PTO-2038.

WARNING: Credit card information should *not* be included on this form as it may become public.

- ☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.
- ☐ A duplicate of this paper is attached.

Date:

Signature of disclaimant

SIGNATURE OF PRACTITIONER OF RECORD

Richard S. Wesorick

(type or print name of attorney)

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